



Department of Justice

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**JUSTICE DEPARTMENT AND FTC URGE MASSACHUSETTS BAR
ASSOCIATION TO REJECT PROPOSAL RESTRAINING COMPETITION
BETWEEN LAWYERS AND NONLAWYERS**

Proposal Likely to Harm Massachusetts Consumers

WASHINGTON, D.C. – The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) today released a joint letter urging the Massachusetts Bar Association to narrow substantially or reject a proposal that, if adopted by the Massachusetts Supreme Judicial Court, would unnecessarily reduce or eliminate competition between nonlawyers and lawyers to provide many services. The Department and FTC said that the proposal likely would lead to higher prices and a reduction in competitive choices for consumers.

According to the letter, signed by the Department's Assistant Attorney General for Antitrust R. Hewitt Pate and FTC Chairman Deborah P. Majoras, the proposal, a model definition of the practice of law, could be interpreted to prevent real estate agents from explaining smoke detector or lead laws to clients; prohibit software makers from selling will-writing and other software; and prevent many advocacy organizations and individual advocates from competing with lawyers to provide citizens with information about legal rights and issues and to help them negotiate solutions to problems. The proposed definition also could prohibit

income tax preparers, accountants, investment bankers and other business planners from providing advice to their clients that includes information about various laws.

Many states permit nonlawyers to provide such services in competition with lawyers, and there has been no demonstration that consumers are hurt by this, the Justice Department and FTC stated. To the contrary, competition between lawyers and nonlawyers has promoted consumer benefit, they explained.

Assistant Attorney General Pate observed, “This proposal to define the practice of law to restrain competition between lawyers and nonlawyers will likely raise prices and harm consumers. Those who would not pay for a lawyer would be forced to do so, and, traditionally, lawyers charge more than lay providers for such services. Further, without competition from nonlawyers, lawyers’ fees are likely to increase.”

Chairman Majoras noted, “Without evidence that nonlawyer services would actually harm consumers, the restriction on lay competition is unjustified. Competition itself is an important form of consumer protection because it leads to lower prices, more convenient services, and greater choices for consumers. Thus, the proposed definition, which restricts competition, may ultimately harm consumers rather than protect them.”

The Massachusetts Bar Association has appointed a task force to draft a proposed definition of the practice of law. If a proposal is adopted by the Association's House of Delegates, the Association’s House of Delegates would ask the Massachusetts Supreme Judicial Court adopt it as a rule.

The Justice Department and Federal Trade Commission previously submitted comments to the Massachusetts House of Representatives in support of HB 180, a bill that would amend the

General Laws of Massachusetts to authorize nonlawyers to perform real estate closing services. The bill is currently pending in the Massachusetts House of Representatives.

Copies of the documents mentioned in this release are available from the Department of Justice and the Federal Trade Commission. The Department of Justice's website is <http://www.usdoj.gov/atr>; the Federal Trade Commission's website is <http://www.ftc.gov>. For more information on the letter at the Department of Justice, contact Renata B. Hesse, Chief of the Networks and Technology Section, at 202/307-6200. For more information on the letter at the Federal Trade Commission, contact Maureen K. Ohlhausen, Acting Director, Office of Policy Planning, at 202/326-2632.

Paper copies of the documents are also available from the Department of Justice Antitrust Division's Documents Group and the Federal Trade Commission's Consumer Response Center. The Department of Justice Antitrust Division's Documents Group can be contacted by phone: 202/514-2481, fax: 202/514-3763, or e-mail: atrdocs.grp@usdoj.gov. The Federal Trade Commission's Consumer Response Center can be contacted at Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Call toll-free: 1-877-FTC-HELP.

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